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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Letter dated 21 March 1997 from the Director of the United Nations Development Fund for Women addressed to the Chairman of the Commission on Human Rights

I am writing to request that the attached report* be circulated as an official document of the fifty-third session of the Commission on Human Rights as a contribution of the United Nations Development Fund for Women (UNIFEM) to the discussions of the Commission on the agenda item that deals with the human rights of women.

(Signed) Noeleen Heyzer
Director, UNIFEM

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* The annex is reproduced as received in the language of submission only.

ANNEX

Integration of Women's Human Rights into the Work of the Special Rapporteurs

Contents

Part I The Concept of Gender-Specific Analysis and Reoprting 4

Part II (i.) Trends in Reporting 7

(ii.) Recommendations Concerning Working Methods and Reporting Methodology 9

Part III Developing More Comprehensive Legal and Conceptual Frameworks 11

Endnotes 15

Integration of Women's Human Rights into the Work of the Special Rapporteurs

1. The 1993 World Conference on Human Rights called on the United Nations human rights bodies, including the special rapporteurs and working groups of the Commission on Human Rights, to address women's de jure and de facto rights on a regular basis. This directive has been reiterated by the Commission itself in its sessions since 1993, through successive resolutions on the integration of the human rights of women throughout the United Nations system, as well as by the Fourth World Conference on Women held in 1995. At its 52nd session, the Commission requested the human rights mechanisms to "regularly and systematically take a gender perspective into account in the implementation of their mandates, including information and qualitative analysis in their reports...."[1]

2. This paper suggests steps that might be taken by the special rapporteurs, special representatives, independent experts and working groups toward the goal of full integration of women's human rights into their reporting and other activities. These recommendations are based on review of the reports submitted to the Commission and the General Assembly since the World Conference on Human Rights and on the report of the expert group meeting on the development of guidelines for the integration of gender perspectives into United Nations human rights activities and programmes, held in Geneva, 3-7 July 1995.[2] Part II summarizes general trends in the reporting on women's human rights and presents recommendations concerning reporting methodology and working methods. Part III addresses "qualitative analysis" by the special mechanisms, i.e., the legal and conceptual frameworks within which women's human rights are presented.

Part I

(i.) THE CONCEPT OF GENDER-SPECIFIC ANALYSIS AND REPORTING

3. The concept of gender-specific reporting and analysis entails an examination of the effects of gender on:

- the form which a human rights violation takes;
- the circumstances in which a violation occurs;
- the consequences of that violation for the victim;
- and the availability and accessibility of remedies.

The term "gender" refers to the socially constructed roles of women and men in public and private life. Gender is thus distinct from "sex," which is biologically determined. Gender denotes the significance attached within societies to sex identity. Historically, women's gender roles have been accorded less political, economic, social and cultural value than those of men. To varying degrees in all societies, discrimination against women is systemic and reflected in the structure and functioning of public institutions, de jure and de facto family relations, access to economic resources, and legal systems. Women's ability to exercise and enjoy their human rights is shaped not only by gender, but also by such factors as race, class, ethnicity or other characteristics, as well as the general factors affecting the human rights situation in a particular context. For example, the continued growth in the feminization of poverty both reflects and reinforces systemic gender discrimination. Social and economic class status, racial or ethnic identity, and macroeconomic policies simultaneously act as determinants of poverty among women.

4. Reporting by the experts of the special procedures and advisory services programmes of the Commission should integrate a gender perspective into every category of rights addressed. The integration of a gender perspective includes not only a determination of whether women are specifically targeted for particular abuses on the basis of their gender, but also an examination of how gender affects the forms of violations to which women and men are subjected, the consequences of those abuses, the circumstances in which abuses occur, and the availability and accessibility of remedies.

5. For example, in his 1995 interim report to the General Assembly the Special Rapporteur on the situation of human rights in the Sudan noted that of the children abducted in the southern and northern Sudan, some of the boys are "used as servants, while the girls become concubines or wives...".[1] Thus, the Special Rapporteur recognizes tacitly that while the practices of slavery, servitude and/or forced labor affect both boys and girls, they assume **gender-specific forms:** girls are subjected to sexual slavery (denoted by the term "concubines") and forced marriage. Similarly, in countries where government expenditures for health have been reduced under structural adjustment and debt reduction policies, the right to the highest attainable standard of health is compromised for both boys and girls. If "son preference" is practiced within families in those countries, however, boys receive preferential access to medical care and food. The right of girls to the highest attainable standard of physical and mental health is thereby further impaired on the basis of their gender.

6. The **circumstances** in which violations occur may also be gender specific. For example, in many countries, women are the majority of workers in non-standard work, such as temporary, casual, multiple part-time, contract and home-based employment.[2] In these contexts, they typically lack the protection of labor laws and health and safety regulations from which men in standard work are able to benefit. As has been detailed by the Special Rapporteur on

violence against women, the home is the site of various forms of gender-specific violence. Preventive and remedial measures should be tailored to the specific circumstances in which violations occur, including any social barriers which must be overcome.

7. The **consequences** of violations may be gender specific in nature. For example, while both men and women are raped in conflict situations and in detention, only women become pregnant as a result. Women who have been raped may also sustain harms not experienced by men. For example, in societies where marriage is the only effective means of ensuring women's access to economic resources and securing social acceptance, women who are deemed unfit for marriage as a result of rape will face severe economic and social obstacles to their livelihood. In many circumstances, rape is an example of a violation directed specifically against women: evidence indicates that women are targeted for rape in many situations of armed conflict and political insecurity and that women in detention are frequently raped by police or security officials.

8. Women face a number of gender-specific barriers in **access to remedies**, such as: levels of general literacy and legal literacy lower than those of men; lack of legal capacity to initiate legal action; community pressures to refrain from reporting or seeking redress for such abuses as violence in the family; less access than men to economic resources necessary to pursue redress; and government failure to protect against reprisals in cases involving sexual assault or violence in the family. National law may fail to provide women adequate remedies even for such violations as the denial of equality before the law or gender discrimination in employment. Where adequate remedies do exist, de facto discrimination frequently deters or obstructs women's recourse to those remedies. National officials involved in the administration of justice often lack the training necessary to carry out their duties with the necessary attention to the nature of gender-specific human rights violations.

9. Gender-specific analysis is necessary in order to **identify the international and national legal norms** relevant to a human rights situation or to allegations concerning a particular violation. For example, restrictions on access to information concerning reproductive health implicate the right to freedom of expression and information and the equal right of women and men to determine the number and spacing of their children. Analysis of the consequences of such restrictions for women points to additional relevant rights, including, inter alia:

- women's right to the highest attainable standard of physical and mental health, which may be denied by illness or injury associated with lack of information concerning reproductive health;
- their right to life, which may be denied by maternal mortality or the use of unsafe reproductive technologies associated with lack of information concerning reproductive health;
- their right to equality in marriage, which may be impaired when women lack the reproductive health information which would support decision-making free from discrimination, coercion and violence; and
- various rights of girls under the Convention on the Rights of the Child, which may be impaired if, as adolescents, they undergo childbirth or suffer physical or mental health problems associated with the lack of information concerning reproductive health.

National law may include both provisions that directly breach rights which are the subject of reporting and provisions that indirectly impair women's ability to exercise those rights. Analysis of the systemic nature of gender discrimination is necessary to identify the latter type of provisions.

10. Gender-specific analysis is also necessary to ensure that **recommendations concerning preventive and remedial measures** will be effective in improving human rights protection for women as well as men. For example, the question of land reform has been raised by special rapporteurs or independent experts reporting on a number of country situations. Their recommendations concerning land reform initiatives should include the elimination of any restrictions on women's legal capacity to own, administer and dispose of property, and women's access to credit, in order to encourage the implementation of laws and procedures that will be effective in securing land rights for both women and men. Recommendations concerning preventive measures should address the specific risks women face as a consequence of their subordinate status in society. For example, measures providing for the return of refugees should take into account the risks of sexual assault which women face. Measures for HIV/AIDS prevention and protection should take into account restrictions on women's right and ability to negotiate safe sex in relations with their husbands and other sexual partners. Gender-specific analysis is particularly important in evaluating and recommending national remedies. Recommendations concerning remedial measures should take into account the barriers women may face in seeking to report and obtain redress for violations.

11. The integration of gender-specific information and analysis thus encompasses consideration of the relationship between gender and: the nature, consequences, and circumstances of human rights violations; the availability and accessibility of remedies for violations; and the de jure and de facto realization of women's human rights. Women's human rights must be an integral part of ongoing reporting, not merely a selective focus in a single report. Women constitute half of humanity. The general prohibition of discrimination on the basis of sex applies to all human rights which are the subject of reporting by the experts of the special procedures and advisory services programme.

12. Reporting on country situations should regularly consider whether gender discrimination occurs, as well as violations that affect women disproportionately or take specific forms based on gender. Reporting pursuant to thematic mandates should regularly consider the effects of gender discrimination on the human rights violations or set of violations which are the subject of the mandate. As observed by participants in the expert group meeting on the development of guidelines for the integration of gender perspectives into United Nations human rights activities and programmes, only through a broadly conceived analysis of laws, institutional structures, policies and practices can the barriers to women's full enjoyment of human rights be identified.

Part II

TRENDS IN REPORTING

13. Review of the reports submitted to the Commission on Human Rights and interim reports submitted to the General Assembly since 1993 reveals progress toward the goal of gender integration but points to the need for intensified efforts by: experts themselves; the Secretariat; governments responding to requests for information and cooperation in connection with on-site visits; and non-governmental organizations (NGOs) submitting information to the special mechanisms. NGOs comprise a central source of information for reporting and other activities by the special rapporteurs, working groups, special representatives, and independent experts. There is a need for expanded monitoring of women's human rights by human rights organizations and increased attention to gender-specific aspects of human rights by all NGOs, including those involved in humanitarian assistance. In addition, training and resources are needed to build the capacity of women's groups to monitor and document violations. This paper identifies steps that can be taken by the experts of the special procedures and advisory services programmes to facilitate improved monitoring on women's human rights, such as more precise characterization of human rights violations against women, and steps that would enhance integration within the scope of information available at present.

14. Collectively, the reports are characterized by **inconsistent attention to, and analysis of, gender-specific violations.** A number of reports include more information on women's human rights and address a broader range of women's human rights than in the past. Women are among the victims identified in specific cases cited in the majority of thematic and country-specific reports. **Few reports include analysis of the relationship between the abuses suffered by women and their subordinate status in public and private life.** Information on individual cases in which the victims were women is a necessary, but not sufficient, element of effective monitoring of women's human rights. Moreover, some reports submitted to the 52nd session of the Commission include only isolated and cursory references to women's human rights, such as references to the number of women inmates or to the fact that rape and sexual assault of women are alleged to occur. The information provided in country specific reports often centers on violence against women. Although attention to such violence is a necessary element of reporting, the integration of women's human rights requires information and analysis on their enjoyment of the full range of civil, cultural, economic, political and social rights covered in the report. As noted above, reporting on abuses specific to, or disproportionately directed against, women is but one aspect of monitoring women's human rights.

15. **Gender disaggregated data** has been increasingly provided in the reports by both thematic and country-specific mechanisms, but has not been provided in all reports or for all categories of information within reports. These omissions reflect the fact that gender cannot always be determined from the information submitted. However, additional steps could be taken to obtain gender disaggregated information on country situations from within the United Nations system itself. **Sources of information** have been expanded in some reports and in connection with some on-site visits to include women's groups, national officials dealing with women's affairs and other sources likely to have information and expertise on women's human rights. A data bank identifying govern-mental and NGO sources of such information and expertise would facilitate routine referral to these sources.

16. The **conclusions and recommendations** in these reports do not consistently address women's human rights. Recommendations establish benchmarks of governments' commitment to, and progress toward, ending violations. Recommendations concerning legal, administrative or other initiatives that would guard against and redress abuses of women's human rights are therefore indispensable.

17. The **organization of information** on women's human rights within reports raises two concerns. First, a number of the reports on country situations have included a separate section on the "situation of women." These sections do not address women's human rights in all of the areas covered with regard to the general situation of human rights in the countries concerned. Reports on country situations should customarily include gender-specific information and analysis in each section dealing with a substantive issue or set of issues. A separate section on women may be appropriate for in-depth analysis of a particular issue or set of issues relating to women's human rights, or for reporting based on an on-site visit. The presentation of a separate section on "the situation of women" as a matter of general practice is inconsistent with a fully integrated approach.

18. Second, a number of reports have presented information on women's human rights in sections titled "women and children." If not integrated into the report as a whole, women's human rights should be discussed in a separate section from the rights of the child, in order to ensure that women are recognized as independent subjects and rights holders under national and international law. Presenting "women and children" as a single category perpetuates the historical focus on women's role as mothers, and reinforces a historical tendency to make concern for women's rights derivative of their role as mothers. There may be situations in which it is appropriate to link information on women and children where the violations are substantively related, such as trafficking in women and girls and certain refugee protection and assistance needs.

19. The reports by the Special Representative on internally displaced persons, the Special Representative on human rights in Cambodia, and the Special Rapporteur on the situation of human rights in the Sudan provide **examples of constructive approaches to women's human rights.** The Special Representatives on internally displaced persons and on human rights in Cambodia have progressively expanded their examination of women's human rights and undertaken analyses of the relationship between violations against women and systemic gender discrimination. Their attention to women's rights in the family and economic, social and cultural rights is particularly welcome in light of the broad effects of women's rights in these areas on their other rights. In reports to the 1996 Session of the Commission, the Special Representative on internally displaced persons presented a well-integrated analysis of violence against women and women's rights to property, education, equality in the family, and participation in decision-making.[7] He also reviewed international norms applicable to the needs of internally displaced women.[8] In previous reports he made detailed recommendations concerning documentation, protection measures, participation in decision-making, and legal reform.[9] Similarly, following a January 1996 mission during which he met representatives of women's groups, the Special Representative for human rights in Cambodia outlined detailed recommendations regarding reform of existing law and review of pending legislation, women's rights to reproductive and sexual health, and labor rights. Among those recommendations were important proposals for action by the Centre for Human Rights.[10]

20. The Special Rapporteur on the situation of human rights in the Sudan has reported on violence against women, women in conditions of forced labor, and de jure gender discrimination. He has followed up his conclusions and recommendations concerning women's human rights by reporting on the Government's failure to act on those recommendations.[11] In his 1995 report to the Commission, the Special Rapporteur reported on rape, malnutrition, forced conversion to Islam and other abuses against women in detention. He noted the need to eliminate the underlying causes of their detention, which include the disadvantaged economic and social status of displaced women.[12]

(ii.) RECOMMENDATIONS CONCERNING WORKING METHODS AND REPORTING METHODOLOGY

21. The following recommendations concerning working methods and reporting methodology are intended to contribute to enhanced integration of women's human rights. Additional analysis and recommendations on gender-sensitive methodologies are provided in the report of the expert group meeting on the development of guidelines for the integration of gender perspectives into United Nations human rights activities and programmes.[*]

a. ***Gender-disaggregated data*** Where available, gender-disaggregated data should be provided for all categories of information. Gender-disaggregated data is increasingly available in the United Nations system, including information on national situations, and should be obtained whenever possible to support analysis of women's human rights.

b. ***Sources of information*** Sources of information should be expanded to include: women's NGOs; local and national NGOs concerned with minority rights; national government offices for women's affairs; organizations of professional women (such as women lawyers, judges, police, doctors, security and prison officers); and local and national religious groups active in promoting women's human rights. To ensure that violations of women's human rights will be accurately identified and adequately documented, improved methodologies and systems of data collection should be developed by the Secretariat in collaboration with NGOs and governments.

c. ***On-site visits*** Preparation for on-site visits should include: (i) developing contacts with a wide range of sources likely to have information or expertise on the situation of women's human rights; and (ii) gathering gender-specific information on national and local law and practice, including information on cultural traditions. Women with expertise on women's human rights and female interpreters should be included in the delegation. Members of the delegation and support staff should receive training on the gender-specific aspects of human rights in the country concerned as a part of preparation for on-site visits.

During on-site visits, experts should seek information from women directly affected by violations, representatives of women's groups, and officials with expertise on, or responsibility for ensuring, women's rights, including, inter alia, officials involved in the administration of justice and social policy. They should seek access to detention facilities where women are held, refugee camps, shelters for women and other locations where information may be obtained from women directly affected by violations. Experts should request that representatives of women's groups and women from the community be included in meetings with community spokespersons (who are often men). They should seek to ensure that interviews with women are conducted in conditions which will protect their safety and the confidentiality of information. A woman staff person should be present during such meetings.

d. ***Conclusions and recommendations*** Conclusions and recommendations should incorporate gender-specific analysis and detailed suggestions regarding preventive and remedial measures, law reform, and steps that might be taken by the United Nations itself, including its technical assistance and advisory services programmes.

e. ***Follow-up*** Information on government action and/or inaction on prior recommendations concerning women's human rights should be provided in each succeeding report. Follow-up discussions should be conducted through direct contacts with government officials and during on-site visits.

f. ***Urgent action*** The need for a response on an urgent basis should be regularly evaluated with regard to allegations regarding women's human rights. For example, in cases of arbitrary detention of women, an urgent response aimed at preventing rape or other sexual assault may be necessary.

Part III

DEVELOPING MORE COMPREHENSIVE LEGAL AND CONCEPTUAL FRAMEWORKS

22. Monitoring and reporting by the experts of the special procedures and advisory services programmes may overlook or misconceptualize the gender-specific dimensions of human rights unless the relationship between systemic gender discrimination and the nature and consequences of violations against women is taken into account. As illustrated by the example of domestic violence, the human rights dimensions of abuses against women become apparent through analysis of this relationship. Violence against women in the family, which was historically regarded solely as a matter to be regulated by national criminal law, is now acknowledged by the world community to engage the international legal responsibility of the state. In 1993, the General Assembly adopted the Declaration on the Elimination of All Forms of Violence Against Women by consensus. The Declaration details a number of steps states should take to eradicate violence against women in the family. Experts can support the progressive development of legal and conceptual frameworks for addressing women's human rights through their fact-finding activities, interpretation of existing standards and, as appropriate, proposals for new standard setting.

23. Several steps toward more comprehensive conceptual and legal frameworks can be suggested based on review of the reports issued since the World Conference on Human Rights. First, **terminology should characterize gender-specific abuses as accurately as possible.** For example, women have been routinely designated a "vulnerable group" in reports by experts. This characterization suggests that women are inherently vulnerable to human rights violations by virtue of their biological sex, obscuring the fact that their vulnerability to abuses is socially determined and a consequence of systemic gender discrimination. Women frequently have been referred to as a vulnerable group in the context of armed conflict, population displacement, and economic conditions restricting access to food, medical care and shelter. In each of these contexts, women's "vulnerability" is the consequence of their subordinate status. Rather than characterizing women as a "vulnerable group," reports should explore the factors which contribute to the likelihood of human rights violations against women, and the nature and consequences of those violations.

24. Second, **gender-specific analysis should be integrated into reporting and recommendations on situations where the institutions of the state have ceased to function or are inadequate for protecting human rights.** Such situations include countries undergoing: transitions to democracy; growth in the numbers of refugees and displaced persons; and a breakdown of the rule of law (including situations characterized by "insecurity"). Transitions to democracy present opportunities to build or rebuild institutional and legal systems that will effectively promote and protect gender equality. Experts examining these situations should identify measures to ensure women's participation in political processes at the local and national levels and promote their roles in building civil society. For example, women's participation in electoral processes can be facilitated through such measures as: quotas and targets for the representation of women among political candidates and among legislators and parliamentarians; voter education for women; and steps to ensure the safety and accessibility of polling places for women. In particular, laws governing nationality and citizenship should guarantee women's independent civil status and equal rights with men to confer nationality on their children.

25. Although many experts have reported on the human rights of refugee and displaced populations, few have examined the grave protection and assistance needs of women. This silence is striking in light of the fact that women, together with children, constitute 80 percent of refugee and displaced populations. The work of the United Nations High Commissioner for Refugees on the needs of refugee women, such as the Guidelines on the Protection

of Refugee Women, should be incorporated into reports and recommendations. Similarly, although experts have reported on violence and insecurity resulting from the collapse of the rule of law in a number of countries, they have often failed to note the corresponding rise in violence against women by both public and private actors in those situations or to recommend measures to reduce such violence.

26. Third, experts should **address violations of women's human rights by non-state actors and examine the scope of state responsibility for those abuses.** Experts of the special procedures and advisory services programmes have increasingly reported on violations by non-state actors, including violence by death squads, communal violence, and violence by religious extremists. This reporting is supported by emerging law. The duty to ensure human rights has been interpreted to create affirmative state obligations to take the steps necessary to enable individuals to exercise their rights. There is a growing recognition that states have certain duties to protect human beings against violations of their fundamental rights.

27. Governments thus may be required to make reasonable efforts to protect key human rights by: establishing adequate legal protection against violations by non-state actors; making good faith efforts to investigate violations by non-state actors when they occur and seeking to punish those responsible; and providing reparations to victims. In the area of violence against women, violence by non-state actors is encompassed in the Declaration on the Elimination of Violence Against Women. The Special Rapporteur on violence against women, its causes and consequences has begun to explore measures the state should take to eliminate violence against women in the family. Experts on country situations and thematic issues should evaluate when violence and other abuses of women's human rights by non-state actors (such as employment discrimination by private enterprises including multinational corporations) engages the international responsibility of the state.

28. Fourth, analysis of women's human rights should **examine the intersection of gender and other factors, including race, ethnicity or socio-economic status.** The concept of "gender-specific" violations does not apply only to violations which occur **solely** on the basis of gender. For example, the involuntary sterilization of women belonging to a racial or ethnic group which suffers discrimination constitutes not only racial discrimination, but also a violation of women's reproductive rights, including their rights to integrity of the person, the highest attainable standard of health and freedom of information, and the right to decide freely on the number and spacing of children. The combined effects of race and gender discrimination shape the nature and consequences of such a violation. Similarly, in many situations of armed conflict women who are members of particular ethnic groups or indigenous peoples are the targets of rape and other sexual assault by security or armed forces. These abuses are directed against women on the basis of **both** their ethnicity and their gender and reflect the tendency in many societies to treat women as the repositories of cultural and/or religious identity.

29. Fifth, experts should routinely assess the **compatibility of national law and practice affecting women's human rights with international norms, including humanitarian norms.** More detailed attention to national law and practice, including draft legislation, would promote greater compatibility of these laws and practices with the general prohibition of gender discrimination and with norms specifically applicable to women. The terminology used to describe violations should accurately reflect their legal characterization. For example, "malnutrition" among women (and among men) should be characterized as the denial of the rights to adequate food and the highest attainable standard of health. There remain inconsistencies among reports by experts in the legal characterization of rape by government agents: some reports have referred to "rape and torture," rather than to "torture, including rape."

30. Experts should consider international norms specifically applicable to women in determining the legal frameworks for their analyses. Among the international norms specifically applicable to women are those contained in the Convention on the Elimination of All Forms of Discrimination Against Women and the Declaration on the Elimination of All Forms of Violence Against Women. The Convention has been among the international instruments cited in an increasing number of reports. Several experts have taken the positive steps of calling for ratification of the Convention or commenting on the status and process of preparing government reports under the Convention.

31. Sixth, the experts of the special procedures and advisory services programmes should **affirm unequivocally that international human rights norms are universally applicable to women's rights.** Any suggestion that it is appropriate to address concepts of women's equality and such matters as dress codes within the framework of religious norms instead of international standards is inconsistent with international human rights law. The international community has repeatedly affirmed that "[w]hile the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."[11]

32. The observance of the religious norms and their embodiment in national law should be viewed as protected manifestations of religion or belief under the Universal Declaration (Article 18) and the International Covenant on Civil and Political Rights (Article 18). The right to manifest religion or belief is not unlimited, however. Both Article 18 of the Universal Declaration and Article 18 of the Covenant on Civil and Political Rights permit restrictions on manifestations of religion or belief if they are necessary to protect the rights and freedoms of others and are prescribed by law.[12] **Restrictions therefore may be imposed on the application of religious law or practice where necessary to protect women's human rights and prescribed by law.**

33. Although states may implement religious law in domestic law, they may not invoke religious law embodied in national law to excuse breaches of their international human rights obligations. The freedom of religion or belief may not be asserted to shield religious law or practice affecting women's human rights from scrutiny. The implementation of international norms in particular cultural contexts may entail their adaptation to culturally specific institutional and legal frameworks and the identification of analogues in indigenous cultural values. However, interpretations of international norms which would undermine the objective of those norms are incompatible with the very notion of human rights, as is the substitution of religious or cultural values for international norms.

34. For example, the concept of the "complementarity" of the roles of men and women cannot be substituted for the basic principle of equality. The principle of gender equality does not require identical treatment of women and men in every case. Indeed, it may require differential treatment in order to achieve substantive equality. The rights of women within the family and in public life cannot be said to be "equivalent" or "complementary" to those of men, however, when greater political and economic power adheres to men's roles. Social or religious norms based on the concept of the "complementarity" of gender roles allocate "equitable" rights to women in relation to the interests of others. Women's rights are thus made derivative of their relationship to others, principally their fathers, husbands, brothers and children. Women's human rights are necessarily exercised within cultural contexts and any assessment of the realization of their human rights must be contextual. However, deference to norms which ascribe rights to women on the basis of their relationships to others is inconsistent with the dignity and integrity of the human person.

35. Finally, experts on country situations should **develop gender-specific methodologies for monitoring and reporting on the realization of economic, social and cultural rights.** Although a number of experts have expanded their reporting on economic, social and cultural rights, gender-specific information and analysis has not been integrated into the majority of those discussions. Women's rights advocates have emphasized the need for greater attention to the economic, social and cultural rights of women, including, inter alia, their rights to: education; health, including reproductive and sexual health; work, including the right to safe and healthy working conditions; adequate food and adequate housing. For example, experts should address gender bias in the allocation of economic resources by the state and within the household and de jure restrictions on women's property rights, including laws governing inheritance and rights to administer property.

36. Monitoring of women's economic, social and cultural rights should take into account not only direct measures to respect, protect and fulfill those rights, but also action to create the enabling conditions for their realization. For example, the Special Representative on human rights in Cambodia called for measures to correct the imbalance in female participation in education and noted the need to provide basic education in mathematics and sciences in day classes rather than night classes, since girls and women often find night classes difficult to attend. Recommendations concerning means of promoting women's economic, social and cultural rights should also take account of the interrelationship among rights. For example, realization of women's right to education is often important to the realization of other rights. The Special Representative on internally displaced persons reported that in Peru, women "speak Spanish less frequently than men and for this reason suffer disproportionate discrimination in their encounters with authorities or when searching for work, including domestic work and petty trading."[*]

37. Analysis of women's economic, social and cultural rights should draw on the practice of the Committee on Economic, Social and Cultural Rights, including its general comments, relating to such questions as specific means for realizing economic, social and cultural rights, minimum core obligations and justiciability. The practice of the Committee on the Elimination of Discrimination Against Women in reviewing States' Parties reports also provides guidance on approaches to implementing those rights, such as initiatives directed toward rural women. In addition, means for realizing women's economic, social and cultural rights may be detailed by reference to: commitments undertaken by governments at recent United Nations conferences, including the Platform for Action adopted by the Fourth World Conference on Women, the Programme of Action of the World Summit for Social Development, and the Programme of Action of the International Conference on Population and Development; the practice of regional human rights bodies; the work of the United Nations specialized agencies, such as the World Health Organization and the International Labour Office; and the practice of states with regard to legislative, administrative and judicial protection of economic, social and cultural rights.

NOTES

1 This paper was prepared as UNIFEM's contribution to the meeting (28-30 May 1996) of the special rapporteurs, special representatives, independent experts and chairs of the working groups of the special procedures of the United Nations Commission on Human Rights and of the advisory services programme of the Center for Human Rights. The paper was presented by Donna Sullivan and Sunila Abeyesekera on behalf of UNIFEM.

2 Commission on Human Rights, Resolution 1996/48.

3 U.N. Doc. E/CN.4/1996/105.

4 U.N. Doc. A/50/569, at para. 51 (1995).

5 Beijing Platform for Action, para. 153.

6 Beijing Platform for Action, para. 96.

7 U.N. Doc. E/CN.4/1996/105, at para.25.

8 U.N. Doc. E/CN.4/1996/52 and Add.1.

9 U.N. Doc. E/CN.4/1996/52/Add.2.

10 U.N. Doc. E/CN.4/1995/50 and Add.1-4.

11 U.N. Doc. E/CN.4/1996/93.

12 U.N. Doc. E/CN.4/1996/61.

13 U.N. Doc. E/CN.4/1995/58.

14 U.N. Doc. E/CN.4/1996/105.

15 Vienna Declaration and Programme of Action, chap. III, para. 5.

16 The European Convention for the Protection of Human Rights and Fundamental Freedoms and the American Convention on Human Rights similarly permit restrictions on manifestation of the religion or belief.

17 U.N. Doc. E/CN.4/1996/93, at para. 63.

18 U.N.Doc. E/CN.4/1996/52/Add.1, at para. 98.